

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING
DECISION NO. 23 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE

In the Matter of the
Reserve Account of:

MASONITE CORPORATION (Appellant)

PRECEDENT
RULING DECISION
NO. P-R-370

FORMERLY RULING DECISION NO. 23

Employer Account No.

ISAC DEAL (Claimant)
S.S.A. No.

The above-named employer on August 5, 1952, appealed from the decision of a Referee (SF-R-346) which denied the appellant's request for a ruling under Section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code].

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

On February 25, 1952, the claimant registered for work and filed a claim for benefits in the Hanford Office of the Department of Employment. In accordance with section 67(e) of the Act [now section 1329 of the Unemployment Insurance Code], a Notice of Computation of the claim was mailed by the Department to the appellant herein, who is a base period employer of the claimant but not his last employer. The aforementioned notice was mailed from the Sacramento Central Office of the Department of Employment on March 7, 1952, and was addressed to the Chicago, Illinois office of the appellant. On March 25, 1952, the appellant submitted certain information to the Department and requested a ruling under section 39.1 of the Act [now

sections 1030-1032 of the Unemployment Insurance Code]. On March 27, 1952, the Hanford Office of the Department denied the appellant's request for a ruling on the ground that the appellant had not furnished information to the Department within ten days from the date of mailing of the Notice of Computation as required by Section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code]. The appellant appealed to a Referee who affirmed the Department's denial of the request for a ruling.

The appellant's industrial relations assistant testified that the appellant's Chicago Office on January 20, 1952, requested the Department of Employment to mail certain documents relating to claims for benefits to its Ukiah address and accounting reports to its Chicago address. The Department replied by stating that only one mailing address was acceptable and that it would send all mail to whatever address was selected by the appellant. In response to this information the appellant, on February 20, 1952, mailed a letter addressed to the California Unemployment Insurance Commission, Sacramento, California, which reads as follows:

"Will you please change our mailing address to Masonite Corporation, Ukiah, California.

"We need our mail sent direct there because there is not sufficient time for us to return the forms that are needed at our plant when they are mailed to our Chicago office. Of course, we will mail our regular quarterly returns from here but, I understand that you will only accept one mailing address, therefore, our Ukiah plant will reforward to us our quarterly returns for filing."

The appellant's industrial relations assistant testified that the delay in submitting information to the Department under section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code] was due to the Department's failure to mail the Notice of Computation to the Ukiah Office as requested in the letter of February 20, 1952.

REASON FOR DECISION

Section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code] provides in pertinent part as follows:

"Any employer who is entitled under Section 67 [now section 1030(a) of the Unemployment Insurance Code] to receive notice of the filing of a new or additional claim or notice of computation may, within 10 days after mailing of such notice, submit to the department any facts within its possession disclosing whether the claimant left such employer's employ voluntarily and without good cause or was discharged from such employment for misconduct connected with his work . . ."

* * *

"This section shall not apply to any employer with respect to any claim of a former employee with respect to whose separation he failed to furnish information within the time limit prescribed above after mailing of either a notice of the filing of a new or additional benefit claim or a notice of computation."

Section 67(e) of the Unemployment Insurance Act [now section 1329 of the Unemployment Insurance Code] provides as follows:

"Upon the filing of a new claim for benefits, a computation on the claim shall promptly be made, which shall set forth the maximum amount of benefits potentially payable during the benefit year and the weekly benefit amount. The claimant and each of the claimant's base period employers shall be promptly notified of the computation."

The evidence in the instant case discloses that on February 20, 1952, the appellant notified the Department of Employment of a change of mailing address from Chicago, Illinois, to Ukiah, California. Despite this notification the Central Office of the Department on March 7, 1952, mailed the Notice of Computation to the appellant's Chicago address. In our opinion, this did not constitute notice to the appellant as provided by section 67(e) of the Act [now section 1329 of the Unemployment Insurance

Code], and the ten-day time limitation within which an employer may submit information to the Department under section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code] did not commence to run until the Notice of Computation was received by the appellant's Ukiah office. While the record does not disclose the date of receipt of the notice in the appellant's Ukiah office, it is reasonable to assume that because of the distances involved the appellant did not receive the notice in its Ukiah office until at least March 15, 1952. Under such circumstances, we believe the Department is precluded from asserting that the appellant did not comply with the ten-day limitation provided in section 39.1 of the Act [now sections 1030-1032 of the Unemployment Insurance Code]. Therefore, the Department is directed to consider the facts submitted by the appellant together with any information in its possession and issue to the appellant its ruling as to the cause of the termination of the claimant's employment.

Our holding in the instant case is distinguishable from Benefit Decision No. 5824 wherein we concluded that notice of the filing of the claim mailed to the branch office of the employer constituted proper notice under the Act despite the employer's request that notices be mailed to its principal office in California. The notice involved in that decision, under Department procedure, emanated from the local office where the claim was filed. The Department had previously notified the employer that it was not feasible or administratively possible to mail notices as requested, and the Department had advised the employer as to a method by which it could submit protests within the time limitations specified by the Act. In the instant case the notice in question, under Department procedure, emanated from the Central Office of the Department where it was feasible and administratively possible to transmit such notices to any address requested by an employer. The Department had informed the employer that its request to change its mailing address would be honored when proper request was made and the employer did make such a request prior to the mailing of the notice involved herein.

DECISION

The decision of the Referee is set aside. The Department is directed to issue a ruling as to the cause of the termination of the claimant's employment with the appellant.

Sacramento, California, November 7, 1952.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Ruling Decision No. 23 is hereby designated as Precedent Decision No. P-R-370.

Sacramento, California, December 1, 1977.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

HARRY K. GRAFE

RICHARD H. MARRIOTT

HERBERT RHODES